

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 142

SENATE BILL 1054

AN ACT

AMENDING SECTION 12-133, ARIZONA REVISED STATUTES; RELATING TO ARBITRATION OF CLAIMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-133, Arizona Revised Statutes, is amended to
3 read:

4 12-133. Arbitration of claims; agreement of reference;
5 arbitration award; powers of arbitrators;
6 compensation of arbitrators; appeals; deposits; costs

7 A. The superior court, by rule of court, shall do both of the
8 following:

9 1. Establish jurisdictional limits of not to exceed ~~fifty~~ SIXTY-FIVE
10 thousand dollars for submission of disputes to arbitration.

11 2. Require arbitration in all cases which are filed in superior court
12 in which the court finds or the parties agree that the amount in controversy
13 does not exceed the jurisdictional limit.

14 B. The court may waive the arbitration requirement on a showing of
15 good cause if all parties file a written stipulation waiving the arbitration
16 requirement.

17 C. The court shall maintain a list of qualified persons within its
18 jurisdiction who have agreed to serve as arbitrators, subject to the right of
19 each person to refuse to serve in a particular assigned case and subject
20 further to the right of any party to show good cause why an appointed
21 arbitrator should not serve in a particular assigned case. The court rules
22 shall provide that the case subject to arbitration shall be assigned for
23 hearing to a panel of three arbitrators, or in the alternative, to a single
24 arbitrator, each of whom shall be selected by the court.

25 D. Regardless of whether or not suit has been filed, any case may be
26 referred to arbitration by an agreement of reference signed by the parties or
27 their respective counsel for both sides in the case. The agreement of
28 reference shall define the issues involved for determination in the
29 arbitration proceeding and may also contain stipulations with respect to
30 agreed facts, issues or defenses. In such cases, the agreement of reference
31 shall take the place of the pleadings in the case and shall be filed of
32 record.

33 E. The arbitration award shall be in writing, signed by a majority of
34 the arbitrators and filed with the court. The court shall enter the award in
35 its record of judgments. The award has the effect of a judgment upon the
36 parties unless reversed upon appeal.

37 F. The arbitrators shall administer oaths or affirmations and conduct
38 the hearings pursuant to court rule. The clerk of the superior court shall
39 issue subpoenas, which are enforceable as provided by law.

40 G. Each arbitrator shall be paid a reasonable sum, not to exceed
41 ~~seventy-five~~ ONE HUNDRED FORTY dollars per day, to be specified by the rules
42 of the appointing court, for each day necessarily expended by the arbitrator
43 in the hearing and determination of the case. The compensation of the
44 arbitrators shall be paid by the county, in which the court has jurisdiction,
45 from its general revenues and shall not be taxed as costs.

1 H. Any party to the arbitration proceeding may appeal from the
2 arbitration award to the court in which the award is entered by filing,
3 within the time limited by rule of court, a demand for trial de novo on law
4 and fact.

5 I. Upon appeal, at the time of filing the demand for trial de novo,
6 and as a condition of filing, the appellant shall deposit a sum equal to the
7 total compensation of the arbitrators, but not exceeding ten per cent of the
8 amount in controversy, which sum shall be deposited with the county. If the
9 court finds that the appellant is unable to make the deposit by reason of
10 lack of funds, the court shall allow the filing of the appeal without the
11 deposit. The deposit shall be refunded to the appellant if the judgment on
12 the trial de novo is at least ~~twenty-five~~ TWENTY-THREE per cent more
13 favorable than the monetary relief or other type of relief granted by the
14 arbitration award. If the judgment on trial de novo is not at least
15 ~~twenty-five~~ TWENTY-THREE per cent more favorable than the monetary relief or
16 other type of relief granted by the arbitration award, the court shall order
17 that the deposit be used to pay, or that the appellant pay if the deposit is
18 insufficient, the following costs and fees, unless the court finds on motion
19 that the imposition of the costs and fees would create such a substantial
20 economic hardship as not to be in the interest of justice:

21 1. To the county, the compensation actually paid to the arbitrator.

22 2. To the appellee, those costs taxable in any civil action and
23 reasonable attorney fees as determined by the trial judge for services
24 necessitated by the appeal.

25 3. Reasonable expert witness fees that are incurred by the appellee in
26 connection with the appeal.

27 J. An arbitrator is personally immune from suit with respect to all
28 acts done and actions taken in furtherance of the purposes of this section.

29 K. The jurisdictional limit under subsection A, paragraph 1 does not
30 apply to arbitration that is conducted under an alternative dispute
31 resolution program approved by the supreme court.

APPROVED BY THE GOVERNOR APRIL 27, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2007.